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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,903	02/08/2001	James Brunner	10711/4	6597

7590 07/31/2002
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EXAMINER

LABAZE, EDWYN

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 07/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/779,903	Applicant(s) BRUNNER, JAMES	
	Examiner EDWYN LABAZE	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-64 are rejected under 35 U.S.C. 102(b) as being unpatented by Barber et al. (U.S. 4,183,779).

Re claim 1: Barber et al. discloses an automatic indicia applying apparatus, which includes a web or roll of substrate/material 94 (col.9, lines 22), a dispensing system 100 (col.5, lines 32-45), a planar area defined in claims (31, 34,38,39,43, and 49) that moves parallel to the first direction and below the web, and an applicator 120 (col.9, lines 64+) that places a label upon a portion of the web that lies above the planar area.

Re claim 2: Barber et al. teaches that the system further includes a pressing apparatus 134 (col.10, lines 29-49) that presses the label onto a portion of the web so as to attaché the label.

Re claim 3: Barber et al. discloses that the system, wherein the dispensing system includes a moving conveyor (col.5, lines 62-80 and col.6, lines 1-19).

Re claim 4: Barber et al. teaches that the system, wherein the dispensing or feeding system includes a moving conveyor/transmission (col.9, lines 1-35) that defines the planar area.

Re claims 5 and 6: Barber et al. discloses that the system, wherein the web and planar area move/rotate at substantially the speed while pressing label onto the web (col.10, lines 29-43).

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Re claim 7: Barber et al. teaches that the system, wherein the pressing apparatus includes a roller 185 (col.13, lines 12-19) that presses the label unto a portion of the web.

Re claim 8: Barber et al. discloses that the system, wherein the pressing apparatus includes a second roller 186 (col.13, lines12-19) opposite to the first roller.

Re claims 16: Barber et al. teaches that the system, wherein the label includes indicia (col.5, lines 21-24).

Re claim 17: Barber et al. discloses that the system, wherein the indicia has alphanumerics (col.3, lines 29-38 and col.30, lines 17+).

Re claim 18: Barber et al. teaches that the system, wherein the indicia includes bar code (col.13, lines 22-37).

Re claim 19: Barber et al. discloses that the system, wherein the label includes an adhesive layer that adhesively engages a portion of the web (col.7, lines 5-46).

Re claim 20: Barber et al. teaches that the system, wherein the label is attached to a second web prior to being placed on a portion of the web (col.9, lines 50-54).

Re claim 21: Barber et al. discloses that the system, wherein the dispensing system further includes a peeler plate (col.10, lines 34-38) that separates the second web from the label.

Re claim 22: Barber et al. teaches that the system, wherein the dispensing system further includes a second applicator 123 (col.9, lines 67+ and col.10, lines 50+) that places a second label (col.11, lines 15-31).

Re claim 23: Barber et al. discloses that the system, wherein the dispensing system further includes a pressing apparatus (col.10, lines 44-49) that presses the second label on a portion of the web.

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Re claim 24: Barber et al. teaches that the system, wherein the dispensing system further includes a moving conveyor (col.5, lines 62+).

Re claim 25: See the discussions as set forth in claim 5.

Re claim 26, 50, 58, and 62: See the discussions as set forth in claim 9.

Re claims 27 and 28: See the discussions as set forth in claims 10 & 11.

Re claim 29: See the discussions as set forth in claim 12.

Re claim 30, 51, 59, and 63: Barber et al. discloses that the system, wherein the second label includes indicia or digits (col.11, lines 32-56).

Re claim 31: See the discussions as set forth in claim 17.

Re claim 32: See the discussions as set forth in claim 18.

Re claim 33: Barber et al. teaches that the system, wherein the dispensing system further includes an applicator places a second label upon a second portion of the web simultaneously with the placement of the label that lies above the planar area (col.8, lines 48-54).

Re claim 34: Barber et al. discloses a moving web of a substrate 94 along a first direction, a moving planar 45 (col.11, lines 6-12), and a placing a label upon a portion of lies above planar area (col.15, lines 34-41).

Re claim 35: Barber et al. teaches a system, which includes a process of pressing label onto a portion of the web as to attach the label (col.10, lines 33-38).

Re claims 36 and 47: Barber et al. discloses a system, which includes a process of controlling the linear speed of the web along a first direction relative to the linear speed of the planar portion parallel to the first direction so as to diminish the risk that the web becomes skewed during pressing (col.12, lines 45-68 and col.13, lines 1-19).

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Re claims 37, 38, 48, 49, and 57: Barber et al. teaches a system, wherein the web and planar move at substantially the same speed (col.10, lines 38-43) during pressing.

Re claim 39: See the discussions as set forth in claim 9.

Re claim 40: Barber et al. discloses a system, which includes a process of attaching the label to a second web prior to the placing (col.9, lines 35-64).

Re claims 41 and 44: Barber et al. discloses a system, which includes a process of separating the second web from the label (col.21, lines 29+).

Re claim 42: See the discussions as set forth in claim 16.

Re claim 43: Barber et al. discloses a system, which includes a process of attaching label to a second web prior to placing (col.21, lines 36-43).

Re claim 45: Barber et al. teaches a system, which includes a process of placing a second label upon a label place on a portion of the web that lies above the planar area (col.22, lines 9-19).

Re claims 46 and 61: Barber et al. discloses a system, which includes a process of pressing the second label onto the label located on a portion of the web as to attach the second label (col.13, lines 12-19).

Re claim 52: Barber et al. teaches a system, which includes a process of placing a second label upon a second portion of the web simultaneously with the placing of the label upon a portion of the web that lies above the planar area (col.25, lines 22-54).

Re claim 53: Barber et al. discloses a system, which includes a process for manufacturing a label and also contains steps of moving a web 94 along a first direction (col.9, lines 36-49), placing the label (col.15, lines 34-41) by the labeller 110 upon a portion of the web using the

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placer mechanism (col.14, lines 61), pressing the label onto a portion of the web so as to attach the label onto the portion of the web (col.10, lines 33-39), and diminishing skewing of the portion of the web during pressing (col.7, lines 5-18).

Re claim 54: Barber et al. teaches a system, wherein diminishing skewing includes controlling the linear speed of the web along the first direction (col.10, lines 40-43).

Re claim 55: Barber et al. discloses a system, wherein diminishing further includes moving a planar portion parallel to the first direction (col.13, lines 12-19 and col.38, lines 50-54).

Re claim 56: Barber et al. teaches a system, wherein the controlling of the linear speed of the web is relative to the linear speed of the planar portion parallel to the first direction (col.10, lines 38-44).

Re claim 60: Barber et al. discloses a process of placing a second label upon the label (col.23, lines 20-68; col.24, lines 1-35).

Re claim 64: Barber et al. discloses a process of placing a second label upon a second portion of the web simultaneously with placing the label upon a portion of the web (cols.21 and 22).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barber et al. (4,183,779) in view of Chamberlain et al. (U.S. 5,1614,278).

The teachings of Barber et al. have been discussed above.

Barber et al. fails to disclose a security element printed on the label.

Chamberlain et al. teaches a strip of separable labels having a display surface for display of information thereon, which includes labels with security elements (col.8, lines 38+)

In view of Chamberlain et al.'s teaching, it would have been obvious to artisan of ordinary skill in the art at the time invention was made to integrate security elements during the manufacturing of labels to prevent and detect theft and identification of the protected articles. The security element is used to that it emits a characteristic signal, which is detected by a detecting device and evaluated as an identification signal for merchandises/articles passing the monitoring on an unauthorized manner. Security elements can be placed under the labels to excite electromagnetically or acoustically or by radio frequencies. Furthermore, such modification would have been an obvious extension as taught by Barber et al., and therefore an obvious expedient.

Re claims 10 and 11: See the discussions of claim 9 and Chamberlain et al. further discloses a security element, which includes a magnetically soft material (col.12, lines 58-60).

Re claim 12: See the discussions of claim 9 and Chamberlain et al. also teaches a security element, which includes an electromagnetically operating oscillating circuit (col.13, lines 11-18).

Re claim 13: See the discussions of claim 9 and Chamberlain et al. discloses a system, wherein the label includes an adhesive layer (col.6, lines 2+) which contains a first surface that

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adhesively engages the security element and a second element that adhesively engages a portion of the web (col.14, lines 28-49).

Re claim 14: See the discussions of claim 9 and Chamberlain et al. further teaches a system, wherein the label is attached to a second web prior to being placed on a portion of the web (col.14, lines 43-49).

Re claim 15: See the discussions of claim 9 and Chamberlain et al. further teaches a system, wherein the dispensing system further includes a peeler plate 14 (col.9, lines 15-32) that separates the second web from label.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Galchefski et al. (U.S. 5,458,729) discloses an apparatus and method for applying labels onto small cylindrical articles.

Souder et al. (U.S. 5,867,102) teaches electronic article surveillance label assembly and method of manufacture.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWYN LABAZE whose telephone number is (703) 305-5437. The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (703) 305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

el
July 29, 2002

A handwritten signature in black ink, appearing to read 'Thien M. Le', with a long horizontal stroke extending to the left.

THIEN M. LE
PRIMARY EXAMINER